

REMARKS

In the Official Action dated January 18, 2005, the Examiner has rejected claims 1-41 under 35 U.S.C. § 112, second paragraph, as the Examiner contends that claims 1-41 as presented contain undue multiplicity. In this regard, the Examiner has required Applicant to elect up to 3 independent claims and up to 12 dependent claims for prosecution in this application.

37 C.F.R. § 1.75 relates to multiplicity and provides that more than one patent claim may be presented in a patent application provided the claims differ substantially from one another and are not unduly multiplied. This rule has been interpreted to mean that:

applicants should be allowed reasonable latitude in stating their claims in regard to number and phraseology employed. The right of applicants to freedom of choice in selecting phraseology which truly points out and defines their inventions should not be abridged. Such latitude, however, should not be extended to sanction that degree of repetition and multiplicity which beclouds definition in a maze of confusion. The rule of reason should be practiced and applied on the basis of the relevant facts and circumstances in each individual case.

*In re Chandler*, 319 F.2d 211, 225, 138 USPQ 138, 148 (CCPA 1963). See also *In re Flint*, 411 F.2d 1353, 1357, 162 USPQ 228, 231 (CCPA 1969). As stated in the *Manual of Patent Examining Procedure*, "undue multiplicity rejections based on 35 U.S.C. 112, second paragraph, should be applied judiciously and should be rare".

Application Serial No.: 10/630,080

*Manual of Patent Examining Procedure*, Section 2173.05(n), (8<sup>th</sup> ed., rev. 2, May 2004) (Emphasis added).

In the present application, 41 claims were originally filed, with 4 being independent apparatus type claims, all differing in scope. The various dependent claims all depend from one independent claim and are also all of differing scopes.

While Applicant disagrees that the claims as filed are unduly multiplied so as to becloud definition, Applicant, however, submits the present Amendment in response to the Examiner's requirement and elects independent claims 1, 12 and 23 and dependent claims 2, 3, 4, 5, 8, 9, 13, 14, 16, 25, 27 and 30 for prosecution in this application. The remaining claims have been cancelled. Applicant reserves the right to file one or more divisional or continuation patent applications directed to the non-elected subject matter.

Application Serial No.: 10/630,080

CONCLUSION

In light of the above Amendment and Remarks, Applicant respectfully requests favorable consideration of the elected claims. Should there be any minor issues outstanding in this matter, the Examiner is respectfully requested to telephone the undersigned attorney.

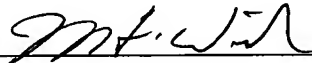
Deposit Account

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account Number 50-0426.

Respectfully submitted,

JENKINS, WILSON & TAYLOR, P.A.

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